

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CHARLES L. BRADFORD, JR., et al.,

Plaintiffs,

No. 1:11-cv-782

v.

HON. ROBERT HOLMES BELL

DONALD LANPHERE, et al.,

Defendants.

MEMORANDUM OPINION AND ORDER

Plaintiffs filed this action in the Allegan County Circuit Court on May 20, 2008. Defendants were served with the complaint on June 7, 2008, and filed their first notice of removal on March 19, 2009. On June 8, 2009, this Court remanded the case to the Allegan County Circuit Court because “the original complaint was removable on the basis of diversity of citizenship at the time it was filed,” and Defendants did not file within the thirty day period allowed under 28 U.S.C. § 1446(b). (Case No. 1:09-cv-253, Dkt. No. 23 at 2.) Now, over two years later, Defendants have once again filed a notice of removal in this action, using nearly identical language.

Once again, this case will be remanded to the Allegan County Circuit Court because the notice of removal is untimely. Defendants appear to suggest that an order entered by the Allegan County Circuit Court on May 13, 2011, has somehow enabled Defendants to ascertain for the first time that this case is one which has become removable. (Dkt. No. 1, ¶¶ 6-8.) Yet this Court already determined two years ago that the original complaint was removable on its face. (Case No. 1:09-cv-253, Dkt. No. 23.) Even if this new order somehow revealed a new federal question basis for

removal,¹ Defendants' second notice of removal remains untimely. The extended time period for filing a notice of removal under § 1446(b) is only available "[i]f the case stated by the initial pleading is not removable." As this Court has already determined that the initial pleading was indeed removable, this second notice of removal is unsupportable. Accordingly,

IT IS HEREBY ORDERED that this case is summarily **REMANDED** to the Allegan County Circuit Court from which it was removed.

Dated: August 16, 2011

/s/ Robert Holmes Bell
ROBERT HOLMES BELL
UNITED STATES DISTRICT JUDGE

¹ It is not at all clear that the order does. The language used by Defendants to describe their federal question basis for removal in this notice of removal is virtually identical to that in their 2009 notice of removal.